

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.19582 of 2018
and W.M.P.No.23011 of 2018

The Transport Commissioner,
State Transport Authority,
Ezhilagam, Chepauk,
Chennai - 600 005.

... Petitioner

Vs.

1.The Secretary,
State Transport Appellate Tribunal,
Chennai - 104.

2.K.S.Rangasamy College for Engineering & Technology,
Thokkavadi Post,
Tiruchengode Taluk,
Nammakkal District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 1st Respondent in impugned order dated 25.07.2017 in M.V.Appeal No.39/2017 and quash the same.

For Petitioner : Mr.V.Jayaprakash Narayanan
Special Government Pleader
For Respondents : Mr.K.Hariharan (R2)

O R D E R

The learned counsel appearing for the 2nd respondent, in whose favour the impugned order has been passed, raised the issue of maintainability of the Writ Petition stating that when the State Transport Appellate Tribunal, Chennai, has passed the order, over-ruling the order passed by the Transport Commissioner, the petitioner is bound to implement the order passed by the Tribunal in M.V.Appeal No.39 of 2017, dated 25.07.2017.

2.The learned counsel for the 2nd respondent, taking support from the order dated 06.01.2009 made in W.A.Nos.867 & 868 of 2007 [The Secretary, Regional Transport Authority, Erode and another Vs. K.S.Senthilnathan], wherein the Hon'ble Division Bench of this Court, taking into consideration the earlier decision of this Court in AIR 1995 MAD 226 [Regional Transport Authority Vs. State Transport Appellate Tribunal] dismissed the Writ Appeals making it clear that the Regional Transport Authority has to implement the order of the Tribunal, submitted that the petitioner has not even filed any appeal against the impugned order. Therefore, the petitioner has no locus standi or any legal right to challenge the same.

3.The relevant portion of the judgment cited supra is extracted hereunder:

"2. The operative portions of the above said order are extracted hereunder:

"4.The first issue to be considered is as to whether the Regional Transport Authority could maintain the writ petitions filed by him, as his personal right has not been affected. That apart, he being a subordinate statutory authority under the scheme of the Motor Vehicles Act, it has to be seen as to whether such writ petitions are maintainable.

5.This issue is no longer res-judicata and has been considered by the Hon'ble Division Bench of this Court in the case of The Secretary, Regional Transport Authority, Erode and another VS. K.S.Senthilnathan in Writ Appeal Nos.867 & 868 of 2007 vide judgment dated 6.1.2009 wherein the Hon'ble Division Bench after taking into consideration the earlier decisions of this Court in the cases of Regional Transport Authority Vs. State Transport Appellate Tribunal reported in AIR 1995 MAD 226 and The Regional Transport Authority, Namakkal Region vs. The State Transport Appellate Tribunal, Madras and 3 others reported in 1994 WLR 316, has dismissed the appeal of the Regional Transport officer.

6.In the light of the same, W.P.Nos.15859 and 15860 of 2013 are dismissed as not maintainable.

7.Consequently, there will be a direction to the Regional Transport

Authority to implement the order of the Tribunal made in M.V. Appeal No.1 of 2013 dated 11.3.2013 within a period of six weeks from the date of receipt of a copy of this order.''

4.The learned Special Government Pleader appearing for the petitioner submitted that in the present case, the Transport Commissioner, Chennai, having suffered the impugned order on the file of the State Transport Appellate Tribunal, Chennai, is still entitled to challenge the impugned order as a State Government Officer.

5.This Court is unable to find any merit in the Writ Petition for the reason that the Regional Transport Authority has challenged the order passed by the State Transport Appellate Tribunal. The Division Bench of this Court deprecating the practice of filing Appeal by the Regional Transport Authority instead of implementing the order passed by the Tribunal, held that the Regional Transport Authority cannot come to this Court challenging the order of Tribunal. The same principle applies to the present Writ Petition.

6.Accordingly, the Writ Petition is dismissed as not maintainable. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

va

To

1.The Secretary,
State Transport Appellate Tribunal,
Chennai - 104.

2. The Transport Commissioner,
State Transport Authority,
Ezhilagam, Chepauk, Chennai 600 005.

+1cc to Mr.K.HARIHARAN, Advocate, S.R.No. 52100
+1cc to the Government Pleader, S.R.No. 52843

W.P.No.19582 of 2018
and W.M.P.No.23011 of 2018

SVN (CO)
TR(24/08/2018)